THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.9289 OF 2002

DATED: 14TH July, 2006.

Between :

Village Reconstruction Organisation, Peda Kakani,
Guntur District. Rep. by its Executive Secretary
R. V. Kolathakar. … Petitioner

And

1. The Regional Provident Fund Commissioner-II, A.P.,
   Padmavathi Buildings, Near Hari Hara Mahal,
   Guntur, Guntur District, and another. … Respondents

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ORDER:

The writ petitioner claims to be a social service voluntary organization registered under the Societies Registration Act, 1860. It is stated that the petitioner organization is established for the sole purpose to help the rural poor and for the said purpose large number of retired and experienced people interested in social work and community development have joined the petitioner organization for execution of various activities. While so, the 1st respondent initiated enquiry under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act') on the premise that the volunteers engaged by the petitioner organization are the employees within the meaning of Section 2 (f) of the Act. However, after conducting elaborate enquiry, the 1st respondent, by order dated 20-3-1995 held that the petitioner was not engaged in the house building industry and therefore the provisions of the Act and the Scheme were not applicable to the petitioner organization. It is not in dispute that the said order has become final.

While so, a fresh notice was served on the petitioner on 2-9-1996 calling upon to explain as to why the petitioner establishment should not be covered under Section 1 (3) (b) of the Act under scheduled head "the institution in which activities improving knowledge and training is systematically carried on". The petitioner filed W.P.No.26375 of 1996 contending that in view of the earlier order dated 20-3-1995, fresh proceedings under the provisions of the Act

cannot be instituted. However, it appears that the said writ petition was disposed of without going into merits of the case and thereafter the petitioner submitted his explanation to the notice dated 2-9-1996. During the course of the enquiry, the petitioner filed an application seeking permission to examine the volunteers and beneficiaries of the petitioner society to establish its activities. While rejecting the said request, the 1st respondent passed an order dated 15-4-2002 in which certain observations were made that the petitioner is a social service organization and therefore the benefit of the provisions of the Act should be extended to the volunteers of the petitioner organization. Thereafter, the matter was posted to 30-4-2002 for further enquiry. On 30-4-2002 the petitioner moved another application to summon certain documents from the Central Provident Fund Commissioner. That application was also rejected and the enquiry was adjourned to 20-5-2002 for hearing. In the meanwhile, the petitioner filed the present writ petition alleging that the observations made by the 1st respondent in the order dated 15-4-2002 show that he had already made up his mind and arrived at a conclusion that the provisions of the Act are applicable to the volunteers of the petitioner organisation. Thus, this writ petition is filed with the following prayer :

> *"Therefore, it is prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 1st respondent in proceeding with the enquiry in Case No.AP/19150 without giving opportunity to adduce the evidence on behalf of the petitioner organization and also refusing to summoning the relevant documents and also proceeding with the matter in a pre-determined conclusion even before the conclusion of the enquiry for deciding the preliminary issue, as arbitrary, illegal and in violation of the well settled principles of natural justice and subsequently direct the second respondent to transfer the matter to any other Regional Provident Fund Commissioner in the State of A.P. / Hyderabad / Visakhapatnam to meet the*

ends of justice …"

This Court while directing Rule Nisi, granted stay of all further proceedings in the enquiry pending before the 1st respondent. The said order remained in force throughout and consequently the enquiry before the 1st respondent is still pending.

When the matter is taken up for consideration, the learned Counsel for the petitioner at the outset submitted that the officer who had passed the order dated 15-4-2002 has since been transferred, some other incumbent is holding the office as on today. The said fact has not been disputed by the learned Counsel appearing for the respondents.

Having regard to the fact that the writ petition has been filed only with an apprehension that the then Regional Provident Fund Commissioner who was conducting the enquiry has already formed an opinion as to the merits of the case, as expressed in the order dated 15-4-2002, and keeping in view that there is a change in the office as on today, virtually the grievance of the petitioner does not survive and therefore it is not necessary for this Court to go into merits of the case. As a matter of fact, since admittedly enquiry under Section 7-A of the Act is still pending, it is for the 1st respondent to hear both the parties and pass appropriate orders in accordance with law and it would not be proper for this Court to express any opinion as to the rival contentions raised by the parties as to the applicability of the provisions of the Act.

In the circumstances, the writ petition is disposed of with a direction to the 1st respondent to proceed with the enquiry in Case No.AP/19150 and pass appropriate orders in accordance with law without having regard to any of the observations made in the order dated 15-4-2002 as expeditiously as possible preferably within a period of three (3) months from the date of receipt of this order. It is made clear that the writ petitioner shall co-operate and participate in

the enquiry promptly for expeditious conclusion of the enquiry.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 14-7-2006

gbs

Note:- CC in 3 days.